

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

MITCHELL WADE HECKER,

Plaintiff,

v.

KEVIN AMICK,

Defendant.

Case No. 3:22-CV-00286-MMD-CLB

**REPORT AND RECOMMENDATION OF
U.S. MAGISTRATE JUDGE¹**

This case involves a civil rights action filed by Plaintiff Mitchell Wade Hecker (“Hecker”) against Defendant Kevin Amick (“Defendant”). Currently pending before the Court is Hecker’s application to proceed *in forma pauperis*, (ECF No. 1), and an order from this Court to change Hecker’s address pursuant to Local Rule (“LR”) IA 3-1, (ECF No. 4).

On June 27, 2022, the Court served a notice on Hecker advising him that the case number in his action had been changed and reassigned. (ECF No. 2.) The notice was returned as undeliverable. (ECF No. 3.) Thereafter, the Court issued an order requiring Hecker to update his address by August 12, 2022, pursuant to LR IA 3-1. (ECF No. 4.) Hecker was cautioned that his failure to do so would result in a dismissal of this action. (*Id.*) This order was also returned as undeliverable with a note stating: “No Mail Receptacle”. (ECF No. 5.)

To date, Hecker has not filed a notice of change of address with the Court. Hecker has not filed a document with the Court since he initially filed his application to proceed *in forma pauperis* on June 24, 2022. (ECF No. 1.)

¹ This Report and Recommendation is made to the Honorable Miranda M. Du, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4.

1 LR IA 3-1 provides that the failure to “immediately file with the Court written
2 notification of any change of address . . . may result in dismissal of the action” Prior
3 to dismissal for failure to follow local rules, the court must consider “(1) the public’s interest
4 in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the
5 risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
6 their merits; and (5) the availability of less drastic sanctions.” *Carey v. King*, 856 F.2d
7 1439, 1440 (9th Cir. 1988) (quoting *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir.
8 1986)). This litigation cannot proceed or be decided on the merits if the Court and
9 Defendant cannot contact Hecker, nor should the Court or Defendant be required to
10 continue to try to resolve the case without Hecker’s participation. All five factors clearly
11 favor dismissal of this case.

12 I. CONCLUSION

13 Based on the foregoing and for good cause appearing, the Court recommends that
14 Hecker’s application to proceed *in forma pauperis*, (ECF No. 1), be denied as moot, and
15 this case be dismissed based upon Hecker’s failure to notify the Court of his change of
16 address pursuant to LR IA 3-1.

17 The parties are advised:

18 1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of
19 Practice, the parties may file specific written objections to this Report and
20 Recommendation within fourteen days of receipt. These objections should be entitled
21 “Objections to Magistrate Judge’s Report and Recommendation” and should be
22 accompanied by points and authorities for consideration by the District Court.

23 2. This Report and Recommendation is not an appealable order and any notice
24 of appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District
25 Court’s judgment.

26 II. RECOMMENDATION

27 **IT IS THEREFORE RECOMMENDED** that Hecker’s application to proceed *in*
28 *forma pauperis*, (ECF No. 1), be **DENIED as moot**; and,

1 **IT IS FURTHER RECOMMENDED** that this action be **DISMISSED without**
2 **prejudice** for Hecker's failure to comply with LR IA 3-1.

3 **DATED:** August 19, 2022.

4 
5 _____
6 **UNITED STATES MAGISTRATE JUDGE**